

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

TANYA LAWSON,	:	
	:	NO. 1:05-CV-00636
Plaintiff,	:	
	:	
	:	<b>ORDER</b>
v.	:	
	:	
	:	
JOHN E. POTTER, POSTMASTER	:	
GENERAL, UNITED STATES POSTAL	:	
SERVICE,	:	
	:	
Defendant.	:	

This matter is before the Court on the Report and Recommendation in which the assigned Magistrate Judge recommended that the Defendant's motion to dismiss be granted (doc. 11). For the reasons indicated herein, the Court ADOPTS the Magistrate Judge's Report and Recommendation in its entirety, GRANTS Defendant's motion to dismiss (doc. 8) and thereby DISMISSES this case from the docket of this Court.

On September 29, 2005, pro se Plaintiff Tanya Lawson filed a complaint alleging that she was subject to discrimination in employment based on her race and sex (doc. 2). On January 11, 2006, Defendant filed a motion to dismiss Plaintiff's complaint for failure to state a claim, alleging that Plaintiff failed to file her formal EEO complaint within the statutory limitations (doc. 8).

In his July 17, 2006 Report and Recommendation concerning Defendant's motion to dismiss, the Magistrate Judge found that

Plaintiff's complaint should be dismissed for failure to exhaust her administrative remedies (doc. 11). The Magistrate Judge noted that in order for this Court to have jurisdiction over Plaintiff's Title VII claims, the Plaintiff must have first pursued administrative relief (Id.). Plaintiff sought EEO Counseling on May 22, 2003 for the April 5, 2003 incident underlying her complaint (Id.). Plaintiff received counseling and a Notice of Final Interview on September 10, 2003 (Id.). The Final Notice informed Plaintiff how to file a formal Equal Employment Opportunity ("EEO") complaint and instructed her that such a complaint had to be filed within fifteen days of her receipt of the Notice (Id.). Plaintiff did not file a formal complaint until October 10, 2003 (Id.).

The Magistrate Judge noted that Plaintiff filed her complaint outside the fifteen day statutory limitations period (Id.). Further, the Magistrate Judge stated that Plaintiff has failed to present any evidence or argument in support of finding that dismissal of her complaint for lack of timeliness should be rejected based on waiver, estoppel, or equitable tolling (Id.). Therefore, because Plaintiff clearly failed to file a timely formal EEO complaint, an act which was required for this Court to have jurisdiction over Plaintiff's claim, the Magistrate Judge found that Defendant's motion to dismiss should be granted (Id.). The Court finds the Magistrate Judge's Report and Recommendation well-reasoned, thorough, and correct.

The Parties were served with the Report and Recommendation and were therefore afforded proper notice of the Magistrate Judge's Report and Recommendation required by 28 U.S.C. § 636(b)(1)(C), including that failure to file timely objections to the Report and Recommendation would result in a waiver of further appeal. See United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981). Neither Party filed any objections thereto within the ten days provided for by Fed. R. Civ. P. 72(b) and 28 U.S.C. § 636(b)(1)(C).

Having reviewed this matter de novo pursuant to 28 U.S.C. §636(b), the COURT ADOPTS the Magistrate Judge's Report and Recommendation (doc. 11) in its entirety, GRANTS Defendant's motion to dismiss (doc. 8), and DISMISSES this case from the Court's docket.

SO ORDERED.

Dated: September 27, 2006

s/S. Arthur Spiegel  
S. Arthur Spiegel  
United States Senior District Judge

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